IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NORTH DAKOTA SOUTHWESTERN DIVISION

Marlyce K. Kemnitz,)
Plaintiff,)) ORDER ADOPTING
vs.	REPORT AND RECOMMENDATION
Jo Anne B. Barnhart, Commissioner, Social Security Administration,) Case No. 1:05-cv-125
Defendant.)

The above-entitled action was referred to Magistrate Judge Charles S. Miller, Jr., for the issuance of a Report and Recommendation. Magistrate Judge Miller issued his Report and Recommendation on October 6, 2006, wherein he recommended that the case be remanded to the Commissioner under sentence four of 42 U.S.C. § 405(g) for further development of the record, including a new residual functional capacity determination based on substantial medical evidence. Neither party objected to the Report and Recommendation.

The Court has carefully reviewed the record along with the Report and Recommendation and finds that Magistrate Judge Miller's Report and Recommendation is thorough and persuasive. Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 11). The Defendant's Motion for Summary Judgment (Docket No. 6) is **DENIED**. The decision of the Commissioner is reversed and the matter is remanded to the Commissioner under sentence four of 42 U.S.C. § 405(g) for further development of the record in accordance with the Report and Recommendation, including a new residual functional capacity determination based on substantial medical evidence.

The Clerk of Court is directed to enter judgment accordingly.

IT IS SO ORDERED.

Dated this 30th day of October, 2006.

/s/ Daniel L. Hovland
Daniel L. Hovland, Chief Judge
United States District Court